

FAS

FILED
 UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

08 FEB 28 AM 11:24

Magistrate Docket No.

'08 MJ0598

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jose CORNELIO-Barragan,

Defendant

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY: *J*


COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326
 Deported Alien Found in the
 United States

The undersigned complainant, being duly sworn, states:

On or about **February 26, 2008** within the Southern District of California, defendant, **Jose CORNELIO-Barragan**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT
 James Trombley
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 28th DAY OF FEBRUARY 2008


 Nita L. Stormes
 UNITED STATES MAGISTRATE JUDGE

KAS

CONTINUATION OF COMPLAINT:**Jose CORNELIO-Barragan****PROBABLE CAUSE STATEMENT**

On February 26, 2008, Border Patrol A. Viau was assigned to linewatch duties in the Imperial Beach Border Patrol Station area of operations. At approximately 5:00 p.m., he responded to a seismic intrusion device in an area know as the "The 90's." This area is approximately four and a half miles west of the San Ysidro, California, Port of Entry, and is approximately one half mile north of the United States/Mexico International Boundary.

As Agent Viau responded to the area, he observed footprints heading in a northerly direction. Agent Viau followed the footprints for approximately one quarter mile and found nine individuals hiding. Agent Viau then found a tenth individual approximately fifty yards away from the rest of the group. Agent Viau identified himself as a United States Border Patrol Agent and conducted an immigration inspection. All ten subjects, including one later identified as the defendant, **Jose CORNELIO-Barragan**, freely admitted to being citizens and nationals of Mexico without any immigration documents that would allow them to legally enter or remain in the United States. Agent Viau then placed the defendant under arrest at approximately 5:26 p.m. and then transported to nthe Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed an immigration history. The defendant's record was determined by a comparison of his immigration record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on January 22, 2008 through San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Warnings/Consulate Rights and was willing to make a statement without an attorney present. The defendant again was questioned as to his immigration status and he freely stated that he is a citizen and national of Mexico present in the United States without any immigration documents that would allow him to enter or remain in the United States legally